

Andrew Large Surveyors Ltd

Planning Statement

Certificate of lawfulness for the retention of prefabricated bungalow at
Birch House, Spinnerbottom, Birch Vale, High Peak, SK22 1DH

David Harris-Watkins PgD MRICS
07.11.2024

PLANNING STATEMENT

1.0 Introduction

This statement has been submitted by Andrew Large Surveyors Ltd on behalf of the applicant. This statement relates to a **Certificate of Lawfulness for the retention of a prefabricated bungalow**. It also essentially comprises a certificate of lawfulness for being in breach of Condition 1 of consent 02171 of the Borough of High Peak. The site address is The Chalet, Birch House, Spinnnerbottom, Birch Vale, High Peak, SK22 1DH.

Alongside this statement the following documents are being submitted in support of the application:

- Site Location Plan
- 3 x Statutory Declarations
- 1 x Witness Statement from previous application at the site

2.0 Background

The wider site comprises the former abattoir at Birch Vale. The building subject of the Certificate of Lawfulness has been located at the site since 1978 and was lived in by the manager of the site from early 1979 until November 2009. The Chalet was brought onto the site in 1978 in two halves and then assembled on the site, it has concrete foundations and has a brickwork base. The porch was erected 6 months later. The building is served by mains sewer, water, electric and phoneline.

The building is currently occupied by tenants of the current landlord and applicant. There was a period when the building was empty whilst the wider site was marketed for sale following closure of the abattoir, however as noted in the witness letter dated 10/02/2014 it was left in a good condition to be reoccupied, as it was by the current tenants following completion of the purchase by the current owner and applicant.



Condition 1 of Application 021701 dated 06/11/1984 for *Portable Bungalow – Renewal Consent at Birch House (Grounds of) Birch Vale*, stated:

This consent shall be valid for a period of 5 years expiring on 31st August 1989. On or before that date the prefabricated bungalow shall be removed from the land and the site be reinstated to its former condition, unless prior consent for its retention has been sought and obtained, in writing, from the Local Planning Authority.

The current application is for the retention of the building, and the matter that it is still onsite as is evidenced by a site visit and Figure 1, clearly demonstrates it has been sited in breach of the planning condition in excess of 10 years and therefore it's siting is lawful, as of the stipulations of sections 171 and 191 of the Town and Country Planning Order 1990.

3.0 Supporting Evidence

3.1 Satellite Imagery



Figure 2 – December 1999 (Google Earth Pro)

The chalet including parking area and garden are vaguely visible on Figure 2. Due to extensive tree cover the building is not visible on any other historical satellite imagery.

3.2 Statutory Declarations

The following statutory declarations are provided demonstrating siting of the dwelling:

- Mr. John Brennand: Occupier of the dwelling from 1979 -2009
- Mr. Richard Woodall: Neighbouring landowner and former trainee mechanic at the site
- Mr. Colin Beeson: Regular visitor of the site with family living and renting property at Birch Vale

3.2 Letters Confirming Previous Use

- A letter dated 10/02/2024 by John Brennand detailing use of the building forming part of a previous planning application at the site. This letter is available on the High Peak application portal.

4.0 Relevant Legislation and Guidance

Planning Practice Guidance provides the following advice in relation to the sufficiency of evidence in **Paragraph 006 Reference ID: 17c-006-20140306**, it states:

“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.”

In relation to the use of statutory declarations as primary evidence, in ***F W Gabbittas v SSE and Newham LBC [1985]***¹ the Court held that the applicant’s own evidence does not need to be corroborated by ‘independent’ evidence in order to be accepted. If the local planning authority has no evidence of its own, or from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided that the applicant’s evidence alone is sufficiently precise and unambiguous to be accepted on the balance of probability.

In this instance the statutory declarations are supported by a historic letter and the matter the building is still located at the site, it is therefore evident that the building is in situ and has been for in excess of ten years from the original breach of condition.

The LPA have no evidence the building has ever been removed or relocated, therefore making the applicants version events less probable. Therefore, a certificate should be issued forthwith.

If on the submission of evidence, the LPA is unhappy with the precise proposed wording of the certificate, the wording can be amended by the LPA, which the applicant may be agreeable to if proposed. Below is an extract from the appeal **APP/K2420/X/21/3283791**², demonstrating the Planning Inspectorate’s use of this previously.

17. S.191(4) of The Town and Country Planning Act 1990 allows the LPA to modify the terms of the application, and to issue a certificate in somewhat different terms to those applied for, so that it accords with the facts and evidence, rather than issuing an outright refusal. This power is also granted to the Secretary of State or the Inspector in the case of an appeal.

¹ *F W Gabbittas v SSE and Newham LBC* [1985] JPL 630

5.0 Conclusion

It is considered that the applicant's evidence is sufficiently precise and unambiguous. It is not considered the LPA, nor any others will have contradictory evidence to make the applicants version of events any less probable, therefore, there is no good reason to refuse the application, and on the balance of probabilities the use is as stated within the application and a certificate is justified.

Signed.....

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